The Solicitors' Journal

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CURRENT TOPICS

Gray's Inn Library

A GREAT event in the history of the legal profession and its institutions happened on 18th June, when Mr. WINSTON CHURCHILL, who, in addition to his other high accomplishments, is a Master of the Bench of Gray's Inn, opened the new temporary library and common room which has been built in Gray's Inn Gardens. The new building is intended to restore some of the amenities and necessities of the Inn, pending more complete restoration. Mr. Churchill said he remembered very well in 1918 coming to a dinner as the guest of Lord Birkenhead, and there first meeting a tall, handsome American then Under-Secretary to the United States Navy. President Roosevelt never let the memory of his contact with Gray's Inn die. After he himself had been made a Bencher he was entrusted with the duty of asking President Roosevelt whether he also would become one, and he broached the matter to him at the first Quebec conference, among some other topics they had to discuss. The President was delighted; he throbbed with pleasure at renewing the association with that great British institution, and immediately accepted the invitation. Mr. Churchill said that the idea of British justice—impartial, sagacious, fair, restrained—held its place even in these days when bigness and violence had counted so much more than it would be desirable for them to continue to count. Those famous London legal institutes, the Inns of Court, had nourished, cherished and fortified the spirit of English fair play and common sense as expressed in the terms of the law. Mr. Churchill concluded with the expression of his confidence that the day would come when the members of Gray's Inn would once again open their ancient hall, renovated and renewed. All who value the causes of freedom and law will join in hoping that the pleasant haunts of those who follow our great profession may be restored speedily and in our time.

Annual Report of The Law Society

THE Council of The Law Society issued their annual report to members on 20th June, 1946. The report states that the Society now has a membership of 11,508 solicitors—a larger number than ever before in its history. Of 7,202 solicitors and 2,253 articled clerks who served in the Armed Forces of the Crown since the outbreak of the war, 2,596 solicitors have notified the society of their release, and at the end of April, 1946, 4,301 solicitors were still serving. Over 70 per cent. attained commissioned rank. Three hundred and five solicitors and 214 articled clerks were killed. Detailed suggestions for putting into effect the proposals of the Rushcliffe Committee, together with financial estimates, have been sent to the Lord Chancellor. The suggestions at present cover only that part of the Rushcliffe scheme that is to be administered by The Law Society, namely, legal advice and civil actions. The Council have informed the Lord Chancellor that they wish later to submit observations on the other side of the Rushcliffe scheme—that is, the special arrangements for granting legal aid in the criminal courts. The report further states that in March last the Lord Chancellor announced that the Government accepted the Society's offer to expand its Services Divorce Department to a size sufficient to handle 20,000 matrimonial cases a year. The department at full strength will consist of eighteen London units and eighteen units at various branch offices in the provinces. The first provincial office started work in Manchester on 29th April last, just over a month after the Lord Chancellor made his announcement. The senior supervising solicitor in charge of all the units is Miss E. E. SPICER, M.A., LL.B. It is also recorded that by May, 1946, 1,252 solicitors had attended refresher courses in London, while Provincial Law Societies and Law Schools made similar arrangements. The Society has helped and advised solicitors returning from the services who are seeking partnerships or employment. When s. 1 of the Solicitors Act of 1941 comes into operation, every solicitor will be required to give the Registrar of Solicitors an annual accountant's certificate. The Council of The Law Society have during the past year been drafting the rules for this procedure.

Representation to the Government

THE Society is continually engaged upon an examination of pending and actual legislation so that, wherever it considers it necessary in the public interest, it can draw the attention of Ministers to anomalies or injustices. For instance, the annual report for 1945 states that, under the 1944 Finance Act, a woman in this country who was left, say, a pearl necklace worth £50 under the will of a friend who died in Australia, had to pay full purchase tax—in this instance 100 per cent.—when she imported the legacy into England. After The Law Society had pointed out the injustice of this—particularly for anyone of small means—to the Board of Customs and Excise, provision was made in the 1946 Finance Bill for the exemption from purchase tax of legacies brought into England from abroad. Again—and this is a much more important instance, for a vital principle of justice is involved—the Council have raised on several occasions the right of the individual to legal representation before special tribunals. For instance, the Council have done all in their power to secure that, under the National Insurance (Industrial Injuries) Bill, legal representation should be allowed to anyone desiring it who appealed to a tribunal against an insurance officer's decision. The Government has now indicated that, although legal representation before tribunals will not be allowed as

of right, it will be permitted in those cases where the tribunal considers it desirable. This is not, of course, a full or satisfactory answer to the Council's representations. In another Bill—Family Allowances—the Council were successful in obtaining a satisfactory assurance as to the right of legal representation. Again, the Council pointed out to the Minister of Fuel and Power the hardship that a private citizen might suffer if, under the Coal Industry Nationalisation Bill, he was deprived of the right of action against the National Coal Board in, for example, accident and subsidence cases, owing to the short limitation period of one year at first proposed. An amendment was later introduced by the Minister increasing the period from one to three years. It is interesting in this connection to note from the report that the seventeen solicitors who were successful at the General Election last year have, at the Council's instance, formed themselves into a " Solicitors' Group," under the chairmanship of Mr. S. S. SILVERMAN and with Messrs. P. ASTERLEY JONES and D. A. P. PRICE WHITE as joint honorary secretaries. The Council keep in contact with them " on those questions of ' lawyers' law ' which arise on pending legislation and which are of concern to members of the public in their capacity as clients of solicitors."

The Bentham Committee

THE Bentham Committee's annual report for 1944–45 shows that cases referred to the committee from poor man's lawyers were fewer than in the previous year, but the number of applicants who have received assistance from poor man's lawyers has increased. The committee records with gratitude the valuable services rendered by solicitors and barristers as poor man's lawyers. It is stated that the results of cases undertaken by barristers and solicitors during the past year have been most satisfactory. Indeed, only one case which was heard in court was unsuccessful, and this was a complicated matter under the Rent and Mortgage Interest Restrictions Acts. In all 317 cases have been referred by poor man's lawyers to the committee during the past year. Of these, the proceedings were successful or satisfactorily settled in seventy-three cases. Applicants advised generally numbered eighty-one. If and when the recommendations of the Rushcliffe Committee are adopted and the machinery for providing legal assistance throughout England and Wales not merely for the very poor, but also for those of limited means, is established, the *raison d'être* of the Bentham Committee will disappear. Meanwhile the committee feels very strongly that its work must be continued without interruption. For the present the committee's financial resources are sufficient if the flow of subscriptions is maintained, but it has little to fall back on. Its greatest need is for more solicitors to undertake negotiations and cases that go into court, and only in a slightly less degree for barristers and solicitors to sit at its poor man's lawyer centres to give advice.

Elections and the Law

WHAT is it that makes parliamentary democracy a reality in this country and the lack of which makes it a half-and-half affair in those countries which pay democracy the compliment of imitating its institutions? The answer would necessarily be lengthy, involving an explanation of the historical evolution of democracy here, and the elaborate precautions provided in the Ballot Act, 1872, the Corrupt and Illegal Practices Prevention Act, 1883, and the Representation of the People Act, 1918, and its amending legislation. Topical events, however, occasionally provide illustrations of how the system works in practice. On 20th June a farmer was fined a total of £60 and five guineas costs by the Bickford Bench for the offences of wrongfully recording a vote and asking for a ballot paper at the General Election (see s. 22 of the Representation of the People Act, 1918, and s. 10 of the Corrupt and Illegal Practices Prevention Act, 1883). Mr. GERALD THESIGER for the prosecution explained that the accused was a farmer and meat salesman who had an office in the City of London, where he had registered himself to vote as well as at his farm for business purposes. As is well known, only one business vote is allowed in addition to the residential vote (s. 8 of the Representation of the People Act, 1918, as amended), and this fact is notified to the public in the familiar notices outside polling booths. Apart from the fact that the offence appeared to be a deliberate attempt to overcome the democratic rule limiting the number of votes which one person may exercise, the interesting feature of the case was that it was necessary to apply to the High Court in order that the Clerk to the Crown in Chancery should produce from his custody the sealed tin containing the used ballot papers, the counterfoils of the papers and the register. Such an order is only granted where it is necessary on an election petition or on the investigation of a charge of corrupt or illegal practices. Thus it is impossible, except for the necessary purposes of the administration of justice, for any citizen, however highly placed, to discover how any other citizen voted at an election. Of the many elections recently held and about to be held abroad, we wonder how many would answer this test.

Rights of a Candidate

IT is important for the proper functioning of an electoral system that candidates should have both full and equal opportunities of putting their qualifications and experience before the electorate. There are limits to this rule, but these are prescribed only for the purpose of securing equality of opportunity. In *Edwards* v. *Jackson and Dingle*, at Manchester Assizes on 7th May, MORRIS, J., heard a case in which a plaintiff in person, who had been a parliamentary candidate at the last General Election for the Moss Side Division, sued the returning officer, who was also Lord Mayor of the City of Manchester at the time of the General Election, and the acting returning officer, who was the Town Clerk. The plaintiff complained that his description on the nomination paper as " Honorary Secretary, Moss Side Tenants' Protection Society " was rendered incorrectly and inadequately simply as " Secretary " on the ballot paper, contrary to rr. 6, 9 and 22 of Sched. I of the Ballot Act, 1872. He claimed the penalty of £100 provided by s. 11 of the Ballot Act, 1872, for alleged wilful misfeasance, wilful act and wilful omission by the defendants. He further claimed damages, which included the deposit of £150, which he had forfeited under s. 27 of the Representation of the People Act, 1918. Rule 6 of Sched. I of the Ballot Act, 1872, provides that the description of each candidate in the nomination paper shall be such as, in the opinion of the returning officer, sufficiently identifies him; r. 9 makes provision for the giving of public notices; and r. 22 provides that candidates shall be described in the ballot papers as in the nomination papers. His lordship held that it was the duty of the returning officer under r. 6 to consider whether the description was sufficient, and therefore to consider whether it was more than sufficient. In objecting to and striking out " blatant surplusage," he was not guilty of a wilful act or misfeasance or omission. Even if there had been any irregular act, his lordship held that he was far from satisfied that any real damage had been proved, as it was " a wild assumption to suggest that votes are influenced by the particular words of description to be found on the actual ballot paper." Judgment was entered for the defendants, with costs.

Recent Decision

In *Berkeley* v. *Berkeley* on 21st June (*The Times*, 22nd June) the House of Lords (LORD SIMON, LORD THANKERTON, LORD PORTER, LORD SIMONDS and LORD UTHWATT) held that " any provisions, however worded," in s. 25 of the Finance Act, 1941 (relating to provisions for the payment of a stated amount free of income tax contained in instruments or contracts made before 3rd September, 1939, and not since varied), referred in all cases to the benefit conferred and not to the words conferring it, and the date was the date when the benefit was conferred. The effect was that a provision contained in a will or codicil within s. 25 was not " made " until the moment of the testator's death, i.e., when the benefit was conferred.

COMPANY LAW AND PRACTICE

DOCUMENTS RELATING TO CHARGES

THIS week I propose to consider the various documents in connection with charges on a company's property which require delivery to the Registrar of Companies, in the same way as I dealt last week with the general documents so requiring delivery during the lifetime of a company.

The documents which, so to speak, merely announce the existence of a charge on the company's property are dealt with by ss. 79–81 of the Companies Act. Section 79 specifies the various charges, particulars of which must be delivered to the registrar. The first class is extremely general, comprising charges for the purpose of securing any issue of debentures. The remaining classes comprise particular charges, mainly defined by means of the nature of the property on which they take effect; in the case of the first class, such considerations are irrelevant and the only question is whether or not the charge is for the purpose of securing an issue of debentures. The remaining classes of charges specified by the section are likely to include most charges made by a company, and it is not easy to think of many charges which would not come under one or other of the clauses. The charges are as follows: charges on uncalled capital; charges on personal chattels created or evidenced by an instrument which, if executed by an individual, would require registration as a bill of sale (and "personal chattels" in this connection includes goods, furniture and other articles capable of complete transfer by delivery, fixtures and growing crops if separately charged, and trade machinery, but not things in action); charges on land, wherever situate, or any interest therein; charges on the company's book debts (meaning debts arising out of the business which ought to be entered in the books, and not merely those debts which are actually entered in the books); floating charges on the undertaking or property of the company (which are really charges defined by their nature rather than the nature of the property upon which they take effect); charges on calls made but not paid; charges on ships and shares of ships; and charges on goodwill, patents, copyrights and licences thereunder, or trade marks.

As I remarked above, it is difficult to think of many charges that would not be caught by this classification, though a simple charge on the benefit of a contract would not be caught, and subs. (6) of the section expressly provides that if a negotiable instrument is given to secure a payment of book debts its deposit for the purpose of securing an advance to the company is not to be treated as a charge on those book debts.

The chief sanction in securing that the proper particulars of all these charges are delivered is to make them void against the liquidator or any creditor of the company if the particulars and the instrument, if any, evidencing or creating the charge are not delivered within twenty-one days of the creation of the charge.

There are various provisions to be complied with in the case of charges created out of England or charges comprising property out of England, which I do not propose to examine in detail, and there is also that provision prescribing what must be filed in the case of debentures. In the case of debentures secured by trust deed the following must be delivered: the deed, the particulars giving the total amount secured by the series, the date of the resolution authorising the issue, a description of the property charged, and the names of the trustees. If there is no trust deed, similar particulars are required, but instead of the trust deed, one of the series of debentures must be delivered.

As I pointed out last week, a company wishing to pay a commission to persons for subscribing or agreeing to subscribe for shares has to deliver a statement to the registrar containing the necessary particulars. Where any commission, allowance or discount is paid or made, even indirectly, in consideration of subscriptions for the debentures of the company, particulars of such commission, allowance or discount must be sent with the particulars of the series of debentures; but failure to do this will not make the whole registration ineffective so as to avoid the debentures against creditors.

The Act places on the company the responsibility for sending the particulars which must be furnished in relation to charges, and in the case of failure to deliver the necessary particulars within the required time imposes a default fine on the company and other persons knowingly a party to the default. It is, however, left open to any person interested in a charge to deliver the particulars himself and so get the charge registered, and in that case he may recover what he has spent on doing it from the company; but if he does so manage to register the charge, that relieves the company and its officers from liability to the default fine.

One further obligation in connection with charges on a company's property is contained in s. 81. Where a company acquires property which is subject to a charge which, if it had been created by the company, would have imposed on the company the obligation of furnishing the particulars referred to above to the registrar and having it registered, exactly similar particulars have to be delivered.

The remaining documents which have to be delivered to the registrar are those that come into existence in connection with the enforcement of any security created by a charge on the company's property.

In all cases where a receiver or manager of the property of a company is appointed, notice of the fact of the appointment must be given to the Registrar of Companies. If the receiver or manager is appointed by the court, the person who obtains the order must give the notice, and if he is appointed under the powers contained in an instrument, the person appointing him must give the notice. This fact is entered on the register kept by the registrar, and, in order to keep the records straight, it is also provided that a receiver or manager appointed out of court who ceases to act as such must give notice to that effect to the registrar.

There is no similar provision in the case of a receiver or manager appointed by the court, as he is under the control of the court and is required by the order appointing him to carry in and pass his accounts in the same manner as every other receiver. A result of this is that, in the case of an appointment by the court, interested persons have no difficulty in discovering what is happening in connection with the enforcement of the security; and, in order to make such information equally available in the case of an appointment out of court, certain provisions are contained in the Act. By s. 310, every receiver or manager who is appointed out of court is required to deliver to the registrar an abstract in the prescribed form showing his receipts and payments every six months or down to the date on which he ceases to act. Such abstract must also include a statement of the aggregate amounts of his receipts and payments since the date of his appointment.

These, then, are the various documents that must be delivered to the registrar in connection with charges. The object of such delivery is to enable the registrar to keep the register under his control in such a condition that interested persons can discover the actual state of any burdens that have been imposed on the company's property. In addition to this register, there is also the register to be kept by the companies themselves, which is a separate matter, subject to different provisions of the Act.

There is one small point of some slight interest relating to a series of debentures. It is provided in the case of such a series that the particulars are to be delivered within twenty-one days after the execution of the trust deed, or of any debenture of the series if there is no trust deed, and a default fine is imposed for failure to do this. In the case of subsequent issues of the same series, particulars of the amount of such subsequent issue is also to be sent under a like penalty, but there is no time fixed by the Act within which the particulars are to be given.

A document which the company is not bound to deliver to the registrar, but which it may and no doubt generally will deliver, is that containing the evidence necessary to satisfy the registrar under s. 84 that any registered charge has been satisfied, so that he may order a memorandum of satisfaction to be entered on the register.

A CONVEYANCER'S DIARY

REGISTRATION OF LAND CHARGES

A NUMBER of provisions are to be found in different parts of the property legislation of 1925 concerning the effect of the registration of land charges under the Land Charges Act, 1925. Under s. 13 of that Act a land charge of Class A, B, C or D created or arising at the present time "shall . . . be void as against a purchaser of the land charged therewith or of any interest in such land" unless the charge is registered before completion of the purchase. But by a proviso to s. 13 (2) it is laid down that in the case of a land charge of Class D, or of an estate contract, the foregoing rule "only applies in favour of a purchaser of a legal estate for money or money's worth." By s. 20 (8) "purchaser" is defined as meaning "any person (including a mortgagee or lessee) who, for valuable consideration, takes any interest in land or in a charge on land." The distinction implied by the reference in the proviso to s. 13 (2) to a purchaser for "money or money's worth" is a fine one; all persons who are "purchasers" within the meaning of this Act take for value; but there are some forms of consideration which are in law "valuable" without being "for money or money's worth." Marriage is, perhaps, the most obvious example of this class. The main distinction imported by the proviso is that an equitable easement, a restrictive covenant, a charge for death duties (those being the sorts of Class D land charge) or an estate contract is only void, if unregistered, against a person acquiring a legal estate. Further, as we have seen, it is only void if he acquires that legal estate for money or money's worth. Any other land charge, if unregistered at the date of completion, is void against anyone acquiring the land or any interest therein so long as he does so for value. But a volunteer taking *inter vivos* or as devisee or on intestacy is not freed from liability even if the charge is unregistered.

So far no question of notice has arisen. Under s. 13 of the Land Charges Act, a land charge, if unregistered, is void against a purchaser. Sections 198 and 199 of the Law of Property Act deal with notice. By s. 198 due registration under the Land Charges Act of any registrable interest is to be notice of that interest to all the world. Conversely, by s. 199, a purchaser is not to be prejudicially affected by notice of any registrable interest which is "void or not enforceable as against him" under the Land Charges Act. Thus, if a registrable interest is unregistered it is void against a purchaser, or a purchaser of a legal estate for money's worth, as the case may be, under the Land Charges Act; if so, actual notice of it does not prejudicially affect a purchaser. (For most practical purposes, the definition of "purchaser" in L.P.A., s. 205 (1) (xxi), is the same as that in the L.C.A.)

It may be convenient to take some practical examples, down to this point.

A, the estate owner in fee simple of Blackacre, enters into a contract to sell it to B. B fails to register the estate contract. A then conveys the legal fee simple on sale to C, who takes free of the contract. If A had conveyed the legal estate to the trustees of his daughter's marriage settlement in consideration of the marriage, they would not have taken free of the contract. If B had registered the estate contract, both C and the trustees would have had notice of it, even if they had no knowledge of it in fact (L.P.A., s. 198). Conversely, as B did not register it, C would not be affected with notice of it, even if he did know of it (L.P.A., s. 199). But the trustees, against whom it would not be void under the Land Charges Act, would or would not be affected with notice of, and so be bound or not bound by, the contract according to the long established rules as to actual and constructive notice.

Again, X, the estate owner in fee simple of Whiteacre, creates a puisne mortgage over Whiteacre in favour of Y, who does not register it. X then for value conveys the legal fee simple to Z, who has notice in fact of the puisne mortgage. Under L.P.A., s. 199, Z is not affected by notice of the puisne mortgage, and by L.C.A., s. 13, such mortgage is void as against Z.

This last example leads us to a curious inconsistency in the legislation. In L.P.A., s. 97, we find that: "Every mortgage affecting a legal estate in land made after the commencement of this Act, whether legal or equitable (not being a mortgage protected by the deposit of documents relating to the legal estate affected), shall rank according to its date of registration as a land charge pursuant to the Land Charges Act, 1925." Supposing that in the last example X, instead of conveying the property to Z on sale, had created in Z's favour a legal puisne mortgage. Suppose, then, that Y had come next day and registered his puisne mortgage, and that Z had done so two days later. Under L.C.A., s. 13, the interest of Y was absolutely void as against Z, because Z was a purchaser and when his purchase took place Y's interest was unregistered. But yet we find that L.P.A., s. 97, provides that each puisne mortgage is to "rank" according to its date of registration. This provision seems to mean that Y's mortgage shall have priority over that of Z, because it was registered first. So far as I know there is no reported decision as to how this dilemma is to be resolved. But I think that the answer must be that the provision making the unregistered mortgage void must prevail, since, where that applies, there is no question as to how the mortgages shall "rank." The earlier one is absolutely void, and so cannot compete for priority at all.

In connection with mortgages, there is an exception, made by L.P.A., s. 96 (2), to the general rule, laid down by L.P.A., s. 198, that registration of a registrable interest is notice of that interest to all the world. Section 96 (2) provides that: "A mortgagee whose mortgage is surrendered or otherwise extinguished shall not be liable on account of delivering documents of title in his possession to the person not having the best right thereto, unless he has notice of the right or claim of a person having a better right, whether by virtue of a right to require a surrender or reconveyance or otherwise. In this subsection notice does not include notice implied by reason of registration under the Land Charges Act, 1925, . . ." The meaning of this subsection is shown by the following example: P is estate owner in fee simple of Greenacre. He makes a first legal mortgage to Q, who takes the deeds. He then makes three puisne mortgages, to R (who duly registers under the Land Charges Act), to S (who does not), and to T (who does). R gives no express notice of his charge to Q; S and T do notify Q, in that order. In due course Q's mortgage is paid off. Having received actual notice of the mortgage of S (before having like notice from T), Q does not return the deeds to P, nor does he give them to R (of whom he has not heard), nor to T, but to S. This course on the part of Q is clearly correct under s. 96 (2). It follows that one may advise a mortgagee not to make a search for other mortgages when his mortgage is being paid off. Equally, one should advise every puisne mortgagee to find out what prior charges there are and to give notice of his interest to the chargees. But the resultant position, in the example, between the three mortgagees is very difficult to understand. Under L.P.A., s. 97, R's puisne mortgage ranks first and T's puisne mortgage ranks before that of S. Under L.C.A., s. 13, the interest of S is actually void against T. But S now has the deeds and so does not come within the system created by s. 97, since that applies only to puisne mortgages. At the same time, as between himself and T, he holds the deeds by virtue of an interest that is absolutely void. It seems, therefore, that S would have no defence to an action of detinue by T.

Finally, it is necessary to note that priority of registration does not always ensure priority in equity. Thus, G, the estate owner of Blueacre, contracts on 1st July to sell it to H and contracts likewise with J on the next day. J registers his estate contract on the 3rd and H on the 4th. H then brings an action against G for specific performance, making J also defendant. The action will succeed, notwithstanding

the priority of J's registration. Nothing in either of the Acts provides that estate contracts shall rank in order of registration. The case is governed by the ordinary rule *qui prior est tempore potior est jure.*

FINANCE ACT, 1941, s. 25

The Times newspaper of Saturday, 22nd June, has a report of the decision of the House of Lords in *Berkeley* v. *Berkeley*, reversing that of the Court of Appeal. Comment must obviously wait till the full report is available. But in the meantime it is important to note that the House was of the opinion that, for the purposes of s. 25 of the Finance Act, 1941, provision by will of a tax-free annuity is "made" at the moment when the will comes into force through the testator's death, and not at that when the will itself was "made," i.e., executed. It may be remembered that there had been decisions of lower tribunals to the contrary effect, not only in the case under appeal, but in others.

LANDLORD AND TENANT NOTEBOOK

BUILDING RESTRICTIONS AND DILAPIDATIONS

WHEN *Maud* v. *Sandars* (*Cherry, Third Party*) (1943), 60 T.L.R. 81, was first reported I ventured to observe (87 SOL. J. 437) that we might one day have a decision on the question whether the Defence Regulations restrictions on building would afford an answer to an ordinary claim for dilapidations. The judgment in that case hinted that they would not ("the object of the Legislature in making these regulations was to conserve building materials; they were not aimed at the rights of landlords so as to prevent a landlord from recovering in money form damages for dilapidations"), but the actual decision in the landlord's favour was based on the omission of the tenant to apply for a licence. This enabled the landlord effectively to contend that the tenant had not even brought himself within the scope of the regulations.

But, apart from the question of illegality, to be mentioned later, a tenant under an ordinary repairing lease would (see the "Notebook" for 21st March, 1942, 86 SOL. J. 81) be in this difficulty: such a lease would oblige him not only to deliver up in good repair, but also to maintain in good repair. Consequently, while it may be customary for landlords to wait till the term expires, they are not limited to a claim for failure to deliver up in good repair; and the tenant could not bring himself within the ambit of a plea of illegality at all if he might lawfully, with or without licence, have maintained the property in good repair, adopting the "stitch in time" principle.

Substantially, this was the position in the recent case of *Eyre* v. *Johnson* (1946), 62 T.L.R. 400, an action in which £670 was claimed for dilapidations. The defendant's lease had run from 1931 to 1944, and contained, *inter alia*, a general covenant to keep the demised house in repair during the term; since 1939 little had been done to satisfy that obligation; in 1944 application was made for the necessary licence, and was refused. "The condition of non-repair," said Denning, J., "was really brought about by a series of breaches of the covenant to keep in repair. If the lessee had performed his covenants from 1939 to 1941 when there was no regulation in the matter, or even from 1941 to 1944 when there was a regulation, but the limit was first £500 and then £100, I do not think that there would have been any difficulty in keeping the premises in proper repair, and there would have been nothing to prevent him performing his covenant. He cannot rely as a defence in this action on a condition of things which his own breaches have brought about."

But the tenant's covenants included one by which he was to paint inside and outside within the last three months of the tenancy, and this might well have given rise to an argument alleging avoidance or discharge by illegality. In the "Notebook" of 21st March, 1942, above mentioned, I suggested that such a point might arise if there were a covenant to use specified materials or to redecorate at specified intervals. In *Eyre* v. *Johnson, supra*, however, the defendant appears to have rested his case not on illegality itself, but rather on impossibility of performance or frustration due to illegality.

This being so, the plea was supported by citing *Baily* v. *De Crespigny* (1869), L.R. 4 Q.B. 180, met by citing *Matthey* v. *Curling* [1922] 2 A.C. 180. The former was a case in which a landlord had covenanted that he and his assigns would not permit building on a paddock adjoining the demised premises; a railway company acquired the land under compulsory powers, and built upon it; it was held that here was a new kind of "assign" not contemplated by the lease. In *Matthey* v. *Curling, supra*, demised premises held under a repairing lease were destroyed by fire while requisitioned by the War Office, the requisitioning continuing till after the term had expired; it was held that these facts did not excuse performance of the covenants, which obliged the lessee to do definite acts: it was no excuse that circumstances which he could not control had happened and prevented his compliance.

It is apparent that *Baily* v. *De Crespigny, supra*, was distinguished in *Matthey* v. *Curling, supra*, by treating it as a decision on interpretation, i.e., of the meaning of the word "assign"; but *Matthey* v. *Curling* itself appears to decide that impossibility, rather than illegality, is no answer to a claim for dilapidations. The plea in *Eyre* v. *Johnson, supra*, was impossibility of performance due to illegality, and I suggest that an attempt could be made to distinguish *Matthey* v. *Curling* in turn by pointing out that no direct prohibition operated in that case.

Thus, no reference appears to have been made to *Metropolitan Water Board* v. *Dick, Kerr & Co.* [1917] 2 K.B. 1 (C.A.), which arose out of less drastic restrictions imposed during the first German War. The defendants had undertaken, before the outbreak of that war, to construct a reservoir for the plaintiffs, the work to be completed in six years. In 1916 the Ministry of Munitions, duly authorised by the Defence of the Realm Regulations, stopped the work and seized some of the plant. It was held, on appeal, that the contract had been frustrated and determined; the frustration was due to impossibility, which was due to illegality. But the Court of Appeal in this case took the "implied term or condition" view of the position: the manifest intention of the parties that there should be freedom of action, liability to cease if lawful performance were made impossible.

If one were to seek to apply this to the facts of *Eyre* v. *Johnson*, one would, of course, be confronted with the answer that the doctrine of frustration does not apply to leases or does so only in exceptional circumstances (see *Cricklewood Property and Investment Trust, Ltd.* v. *Leighton's Investment Trust* [1945] A.C. 221; 89 SOL. J. 158). Liability to repair imposed by a tenant's covenant is but one of the features of a lease, and the judgments both in *Maud* v. *Sandars* and *Eyre* v. *Johnson* would support the view that a landlord covenantee has, *prima facie*, a right to have premises delivered up in such state that they will let as well as they did, or to monetary compensation if they will not. If the building restrictions were to protect the tenant, he would be saved expense by an unforeseen event.

TENANT'S COVENANT TO INDEMNIFY

While the facts were somewhat unusual, and the decision was not mainly concerned with landlord and tenant questions, *Henson* v. *L.N.E. Rly. Co.* (*Coote and Warren, Ltd., Third Parties*) (1946), 62 T.L.R. 369 (C.A.), is worth noting by those dealing with tenancies of industrial premises of the type concerned. The railway company had let a piece of land to the third parties, who were railway wagon repairers and who agreed "to bear the risk of and be responsible for all damage, injury or loss whatsoever, howsoever, and whensoever caused

(arising directly or indirectly out of or in connection with the use of the said premises) or sustained by him or his workmen, servants or agents while working or being on the company's line of railway or sidings and whether such damage, injury or loss be caused by the act, neglect or default of the company or company's servants or otherwise and the tenant further agrees to keep the company . . . freed from and indemnified against all liabilities, claims and demands whatsoever in respect of such damage, injury or loss as aforesaid . . ." The defendants, having been held liable to the plaintiff, an employee of the third parties, for injuries sustained through their negligence, were held entitled to indemnity under this clause though the accident did not occur on the premises but on the railway company's undemised property, and though the plaintiff's presence there had nothing to do with the tenancy.

TO-DAY AND YESTERDAY

June 24.—On 24th June, 1628, the Gray's Inn benchers ordered " that no gentleman shall be called to the bar by pension henceforth by the space of three years next ensuing but only the gentlemen hereafter named viz. Mr. Peter Brereton and Mr. Richard Newdigate are called to the bar, they paying all arrears of commons and pensions." At that time call was normally by the Reader.

June 25.—On 25th June, 1633, the Gray's Inn benchers ordered that " the hanging buildings to be built by Mr. Higgons are to be built with a fitting gallery." In January a fifty years' building lease had been granted to Richard Higgons, a bencher, of the chambers in Holborn Court known as " the hanging buildings." They stood on the site of the present No. 4, South Square, and had been erected in 1578 by Edward Stanhope next to some chambers he had previously put up on the site of No. 5. Before Stanhope's time the site of No. 4 had on it " one old mud wall betwixt the lodgings of the said Edward and certain ancient buildings of Gray's Inn called Hales his buildings." The chambers of 1633 were known as Higgons' Buildings. The present No. 4 was built in 1752. On this date there is also a note of a sink in the George Yard " which annoys the Court next Holborn."

June 26.—On 26th June, 1541, the Inner Temple benchers ordered " that Master Latton, Master Solicitor, Master Bemont and Master Carell shall commune with the Treasurer and company of the [Middle] Temple for the repairs of the Church and the Bridge of the Temple." The Bridge was the Temple Stairs at the foot of Middle Temple Lane.

June 27.—On 27th June, 1563, the Treasurer of the Inner Temple was directed " to talk with the Treasurer of the Middle Temple touching a pair of silver censers belonging to the Temple Church, which Mr. Hone, late Treasurer of the Middle Temple, took into his custody out of the same church." They were also to confer about the stopping of a door made out of a chamber belonging to the Middle Temple which gave access to the steeple and the leads " by means whereof the lead there hath been perished, broken and taken away."

June 28.—On 28th June, 1596, the Gray's Inn benchers ordered that " whereas Mr. Charleton doth owe for his vacations the sum of £15, foreasmuch as the said Mr. Charleton was in Her Majesty's service, being Sheriff of Shropshire for one of those years in which he should have attended, he is discharged of £9 . . . paying the residue of the said sum being £6 at or before Saturday next."

June 29.—In 1596 there was a controversy between Gray's Inn and Staple Inn, the benchers of Gray's Inn claiming the right to displace the Principal of Staple Inn. This they had purported to do " upon some complaint brought by the butler and some unruly youths " of the misbehaviour of the Principal, Thomas Fryer. On 29th June they ordered that " whereas the Principal of Staple Inn this last vacation was sequestered from his place for contempts committed by him against the benchers of this Society and some misdemeanours likewise committed against his own House," the sequestration should continue till 2nd November, and Richard Champion, who had been given superintendence of the Inn, should retain his place till then. The complaints against the butler were to be respited till next term. Notwithstanding his sequestration Fryer was to proceed with the new buildings in the Inn on the east side of the garden court. Finally, in November, Fryer was restored to his office.

June 30.—On 30th June, 1617, the Gray's Inn benchers ordered that as divers members " some being in commons, some lying in the House and some lying in the town near unto the House " had not received Communion for a year contrary to former orders, and as remissness in punishing the offenders " doth make others more careless in performing their Christian duty," the thirty-six offenders named were to be fined 20s.

BOW STREET RING

The recent death of Jack Johnson, the coloured heavyweight champion, recalls the curious fact that in 1911 he and the present Lord Simon met as opponents, but it was in police court proceedings at Bow Street. The case arose out of a scheme to promote a fight at the old Earl's Court exhibition between Johnson and Bombadier Wells, for the world championship; the late Mr. " Jimmy " White, an ex-bricklayer turned financier, being the prime mover. The prosecution of Johnson, Wells, White and two others for threatening to commit a breach of the peace was the result of a wild campaign to stop the fight on the most divers grounds. It was alleged by prominent Free Churchmen on the one hand that children might be corrupted by seeing films of it. *The Times*, on the other hand, laid stress on the danger of stirring up racial disorders within the Empire. In the face of these representations the Government yielded and to Sir John Simon as Solicitor-General fell the task of arguing that the match would be illegal. To establish this he submitted that what was proposed was not a boxing exhibition but a brutal prize fight in which serious injury was contemplated, since Johnson was so formidable a fighter that no opponent had been able to put up a proper stand against him. Johnson conducted his own case and often interposed. When Simon said, in the course of his speech: " I do not know exactly what a kidney-punch is," he muttered " I'll show you ! " He was highly gratified by the recital of his triumphs in his previous fights. The case never reached a conclusion, for a High Court decision that the fight could not be held at Earl's Court under the terms of the lease caused the matter to be dropped.

PUBLIC FEUD

A public breach between two of the nine justices of the Supreme Court of the United States has brought into the open a long-standing feud. One has now charged the other with having " unfairly participated " in the decision of a case argued by his former legal partner. He also complains of having been " unfairly attacked " in the Press by his colleague. It is curious how little incidents of this sort seem to affect the course of justice in the long run. Lord Bowen's famous suggestion to amend the phrase, in a draft address by the judges to the Queen, " conscious as we are of our own shortcomings " to " conscious as we are of one another's shortcomings " would probably have been apt at any period in legal history, and even in Victoria's reign differences between legal personalities were not always private. The feud between Lord Chelmsford and Lord Westbury was notorious, and they were constantly in conflict on the floor of the House of Lords. " Each had the faculty of rousing what have been happily termed the travelling acids in the system of the other," and once at least Westbury poured on his enemy " a pellucid, calm, flowing stream of vitriol which lasted for about an hour." In March, 1862, when Westbury was Lord Chancellor, in the course of a discussion as to the effect of an omission in the new Bankruptcy Act, Chelmsford charged him with negligence, insincerity and tyranny. Westbury retorted by accusing him of indulging in personal antipathies and of being for weeks together in daily confidential intercourse with him, without giving him the slightest hint that he intended to assail him with a series of charges entirely founded on perversions of fact. " It will be a lesson to me for the future," he said, " with whom I engage in confidential intercourse." Lord Derby protested against this language as being undignified and undeserved.

Jones, J., on Friday last week, granted a decree nisi of divorce to a petitioner who had filed his petition two days earlier. The primary ground for expedition was to enable the respondent and co-respondent, should the court give leave to expedite the decree absolute, to be free to marry before the birth of a child to the respondent in July.

The quarterly meeting of the Lawyers' Prayer Union will be held on Thursday, 11th July, at 6 p.m. (preceded by half an hour for tea) in the Council Room of The Law Society. The speaker at this meeting is to be Mr. L. C. Wood, a missionary attached to the China Inland Mission, and his subject will be " The Challenge of the Far East."

COUNTY COURT CALENDAR FOR JULY, 1946

Circuit 1—Northumberland
His Hon. Judge Richardson
Alnwick,
Berwick-on-Tweed,
Blyth, 22
Consett, 26
Gateshead, 9
Hexham,
Morpeth,
†*Newcastle-upon-Tyne, 17, 18 (B.), 19 (J.S.)
North Shields, 25
Seaham Harbour, 29
South Shields, 10
Sunderland, 24, 31

Circuit 2—Durham
His Hon. Judge Gamon
Barnard Castle, 25
Bishop Auckland, 23
Darlington, 10, 24
*Durham, 9 (J.S.), 22
Guisborough, 19
Leyburn, 15 (R.)
Middlesbrough, 4, 18 (J.S.)
Northallerton, 26
Richmond, 11
†*Stockton-on-Tees, 16
Thirsk, 18 (R.)
West Hartlepool, 17

Circuit 3—Cumberland
His Hon. Judge Allsebrook
Appleby,
†*Barrow-in-Furness, 3, 4
Brampton,
*Carlisle, 17
Cockermouth, 11
Haltwhistle,
*Kendal, 16
Keswick,
Kirkby Lonsdale,
Millom, 9
Penrith, 18
Ulverston, 2
†*Whitehaven, 10
Wigton,
Windermere, 4 (R.)
*Workington,

Circuit 4—Lancashire
His Hon. Judge Peel, O.B.E., K.C.
Accrington, 18
†*Blackburn, 8, 12, 19 (J.S.), 31 (B.)
†*Blackpool, 3, 4, 10, 11, 17 (J.S.), (B.), 31
Chorley, 15
Lancaster, 5
†*Preston, 2, 16 (J.S.), 26 (B.)

Circuit 5—Lancashire
His Hon. Judge Harrison
†*Bolton, 17, 24
Bury, 1 (J.S.), 22
*Oldham, 4, 18, 25 (J.S.)
Rochdale, 19 (J.S.), 26
*Salford, 2, 5 (J.S.), 15, 16, 23 (J.S.)

Circuit 6—Lancashire
His Hon. Judge Crosthwaite
His Hon. Judge Procter
†*Liverpool, 1, 2, 3, 4, 5, 10, 11, 12, 15, 16, 17, 18, 19, 22, 23, 24, 25, 26, 29, 30
St. Helens, 3, 17
Southport, 2, 16
Widnes, 19
*Wigan, 4, 18

Circuit 7—Cheshire
His Hon. Judge Burgis
Altrincham,
*Birkenhead,
Chester,
*Crewe,
Market Drayton,
Nantwich,
*Northwich,
Runcorn,
*Warrington,
(*List not received*)

Circuit 8—Lancashire
His Hon. Judge Rhodes
Leigh, 5, 26
†*Manchester, 2, 3, 4, 8, 9, 10, 11, 12 (B.), 16, 17, 18, 22, 23, 24, 25, 26 (B.), 30, 31

Circuit 10-Lancashire
His Hon. Judge Raleigh Batt
*Ashton-under-Lyne, 5, 12
*Burnley, 25, 26
Colne,
Congleton, 19
Hyde, 3
*Macclesfield, 9
Nelson, 24
Rawtenstall, 17
Stalybridge, 18 (J.S.)
*Stockport, 2, 16, 30, 31 (J.S.)
Todmorden, 23

Circuit 12—Yorkshire
His Hon. Judge Rice-Jones
*Bradford, 11, 19, 25 (J.S.)
Dewsbury, 18
*Halifax, 22
*Huddersfield, 16, 17
Keighley, 9
Otley, 10
Skipton, 8
Wakefield, 9 (R.), 23

Circuit 13—Yorkshire
His Hon. Judge Essenhigh
*Barnsley, 3, 4, 5
Glossop, 17 (R.)
Pontefract, 15, 16, 17
Rotherham, 23, 24
*Sheffield, 2 (J.S.), 11, 12, 18, 19, 25, 26, 30 (J.S.)

Circuit 14—Yorkshire
His Hon. Judge Stewart
His Hon. Judge Ormerod
Harrogate, 5
Leeds, 3, 4 (J.S.), 10, 17, 18 (J.S.), 24, 30 (R.B.), 31
Ripon, 16
Tadcaster, 9
York, 23

Circuit 16—Yorkshire
His Hon. Judge Griffith
Beverley, 12
Bridlington, 8
Goole, 23 (R.), 26
Great Driffield, 22
†*Kingston upon Hull, 15 (R.), 16 (R.), 17, 18, 19 (J.S.), 22 (R.B.), 29 (R.)
Malton, 24
Scarborough, 9, 10, 16 (R.B.)
Selby, 5
Thorne, 25
Whitby, 10 (R.), 11

Circuit 17—Lincolnshire
His Hon. Judge Shove
Barton - on - Humber, 19 (R.), 26
†*Boston, 11 (R.), 18, 25 (R.B.)
Brigg,
Caistor,
Gainsborough, 17 (R.), 22
Grantham, 3 (R.), 19
†*Great Grimsby, 4 (R.B.), 10 (J.S.), 11, 12, 24 (J.S.), 25
(*R. every Wednesday*)
Holbeach, 25 (R.)
Horncastle, 26 (R.)
*Lincoln, 11 (R.), (R.B.) 15
*Louth, 30
*Market Rasen 23 (R.)
Scunthorpe, 9, 15 (R.), 23
Skegness,
Sleaford, 16
Spalding, 17
Spilsby, 3

Circuit 18—Nottinghamshire
His Hon. Judge Caporn
Doncaster, 5, 25, 26
East Retford, 9 (R.), 30
Mansfield, 8, 29
Newark, 2 (R.), 23
*Nottingham, 4 (R.B.), 10, 11, 12 (J.S.), 17, 18, 19 (B.)
Worksop, 2 (R.), 16

Circuit 19-Derbyshire
His Hon. Judge Willes
Alfreton, 16
Ashbourne, 9
Bakewell,
Burton-on-Trent, 17 (R.B.)
Buxton, 15
Chesterfield, 12, 19
*Derby, 3, 4 (J.S.), 10, 23 (R.B.), 24, 25 (J.S.)
Ilkeston, 23
Long Eaton,
Matlock, 22
New Mills,
Wirksworth,

Circuit 20—Leicestershire
His Hon. Judge Field, K.C.
Ashby-de-la-Zouch, 18
*Bedford, 16 (R.B.), 24
Hinckley, 17
Kettering, 23
*Leicester, 8, 9, 10 (J.S.) (B.), 11 (B.), 12 (B.), 29, 30, 31 (J.S.) (B.)
Loughborough, 16
Market Harborough, 15
Melton Mowbray, 26
Oakham, 19
Stamford, 22
Wellingborough, 25

Circuit 21—Warwickshire
His Hon. Judge Dale
His Hon. Judge Tucker, (Add.)
*Birmingham, 1, 2 (B.), 3, 4, 5, 8, 9, 10, 11, 12, 15, 16, 17, 18, 19, 22, 23, 24, 25, 26, 29, 30 (B.), 31

Circuit 22—Herefordshire
His Hon. Judge Langman
Bromsgrove, 12
Bromyard, 3
Evesham, 17
Great Malvern, 8
Hay,
*Hereford, 16, 23
*Kidderminster, 9, 30
Kington,
Ledbury, 31
*Leominster, 15
Ross,
*Stourbridge, 4, 5
Tenbury, 18
*Worcester, 24, 25

Circuit 23 — Northamptonshire
His Hon. Judge Forbes
Atherstone, 18
Banbury, 19
Bletchley, 23
Chipping Norton, 10
*Coventry, 8 (R.B.), 22
Daventry,
Leighton Buzzard,
*Northampton, 2 (R.B.) 15, 16, 30 (R.B.)
Nuneaton, 3
Rugby, 4
Shipston-on-Stour, 19
Stow-on-the-Wold,
Stratford-on-Avon, 25
Warwick, 26 (R.B.)

Circuit 24 — Monmouthshire
His Hon. Judge Thomas
Abergavenny,
Abertillery, 9
Bargoed, 10
Barry, 4
†*Cardiff, 1, 2, 3, 5, 6
Chepstow,
Monmouth, 16
*Newport, 18, 19
Pontypool and Blaenavon, 17, 26
*Tredegar, 11

Circuit 25—Staffordshire
His Hon. Judge Finnemore
*Dudley, 2, 11, 18, 25
*Walsall,
*West Bromwich, 3, 17, 24
*Wolverhampton, 5, 19, 26

Circuit 26—Staffordshire
His Hon. Judge Tucker
*Hanley, 4, 18, 19
Leek, 15
Lichfield, 24
Newcastle - under - Lyme, 16
Redditch, 12
*Stafford, 5
*Stoke-on-Trent, 3
Stone, 29
Tamworth, 25
Uttoxeter, 26

Circuit 28-Shropshire
His Hon. Judge Samuel, K.C.
Brecon,
Bridgnorth,
Builth Wells,
Craven Arms,
Knighton,
Llandrindod Wells,
Llanfyllin, 12
Llanidloes, 3
Ludlow, 8
Machynlleth, 5
Madeley, 11
Newtown, 4
Oswestry, 9
Shrewsbury, 15, 18
*Wellington, 16
Welshpool, 12
Whitchurch, 17

Circuit 29—Caernarvonshire
His Hon. Judge Evans, K.C.
Bala, 22
†*Bangor, 8
Blaenau Festiniog,
*Caernarvon, 10
Colwyn Bay,
Conway, 18
Corwen, 22
Denbigh, 16
Dolgelly, 15
Flint, 10 (R.)
Holyhead,
Holywell, 19
Llandudno,
Llangefni,
Llanwrst, 26
Menai Bridge, 9
Mold, 23
*Portmadoc,
Pwllheli,
Rhyl, 17
*Ruthin,
Wrexham, 24, 25

Circuit 30—Glamorganshire
His Hon. Judge Williams, K.C.
*Aberdare, 2, 30
Bridgend, 22 (R.), 23, 24, 25, 26
Caerphilly, 18 (R.)
Merthyr Tydfil, 4
*Mountain Ash, 3, 31
Neath, 17, 18, 19
*Pontypridd, 9, 10, 11, 12
*Porth, 8
Port Talbot, 16
*Ystradyfodwg,

Circuit 31—Carmarthenshire
His Hon. Judge Morris, K.C.
Aberayron, 18
†*Aberystwyth, 26
Cardigan, 22
†*Carmarthen and Ammanford, 2, 3
†*Haverfordwest, 17
Lampeter, 30
Llandovery,
Llanelly, 23, 25
Narberth, 15
Newcastle Emlyn,
Pembroke Dock, 16
*Swansea, 8, 9, 10, 11, 12

Circuit 32—Norfolk
His Hon. Judge Pugh
Beccles, 2 (R.), 30
Diss,
Downham Market,
East Dereham, 3
Fakenham, 2
†*Great Yarmouth, 4, 5
Harleston, 25
Holt, 18
†*King's Lynn, 11, 12
*Lowestoft,
North Walsham, 10
*Norwich, 15 (J.S.) (B.), 16, 17
Swaffham,
Thetford,

Circuit 33—Essex
His Hon. Judge Hildesley, K.C.
Braintree, 12
*Bury St. Edmunds, 16
*Chelmsford, 2, 30
Clacton, 23
Colchester, 3 4, 31
Felixstowe, 17
Halesworth, 22
Halstead,
Harwich, 19
Ipswich, 5, 10, 11
†*Maldon, 18
Saxmundham, 29
Stowmarket, 26
Sudbury, 24
Woodbridge,

Circuit 34-Middlesex
His Hon. Judge Tudor Rees
His Hon. Judge Collingwood (Add.
Uxbridge, 2, 9, 16, 30

Circuit 35 — Cambridgeshire
His Hon. Judge Campbell
Biggleswade, 2
Bishops Stortford, 16
*Cambridge, 5 (R.B.), 24 (J.S.), (B.) 25
Ely, 22
Hitchin, 12
*Huntingdon, 5 (R.), 18
Luton, 4 (J.S.) (B.), 5, 25 (R.)
March, 15
Newmarket, 26
*Oundle, 10
Peterborough, 5 (R.), 8, 9
Royston, 19
Saffron Waldon, 1
Thrapston, 17
Wisbech, 23

Circuit 36—Berkshire
His Hon. Judge Hurst
*Aylesbury, 5, 19 (R.B.)
Buckingham, 23
Cheltenham, 9, 10, 30
Henley-on-Thames,
High Wycombe, 4
Northleach, 29
Oxford, 8, 15 (R.B.), 25
Reading, 11 (R.B.), 17, 18, 19
Tewkesbury, 12
Thame,
Wallingford, 22
Wantage, 16
Witney, 24

Circuit 37-Middlesex
His Hon. Judge Sir Gerald Hargreaves
Chesham, 2
*St. Albans, 23
West London, 1, 2, 3, 8, 9, 10, 15, 16, 17, 22, 24, 29, 30, 31

Circuit 38-Middlesex
His Hon. Judge Andrew
His Hon. Judge Armstrong (Add.)
Barnet, 2, 16, 23
*Edmonton, 4, 5, 11, 12, 18, 19, 25, 26, 30
Hertford, 10
Watford, 3, 17, 24, 31

Circuit 39-Middlesex
His Hon. Judge Engelbach
His Hon. Judge Tudor Rees (Add.)
Shoreditch, 1, 4, 5, 8, 9, 11, 12, 15, 16, 18, 19, 22, 23, 25, 26, 29, 30
Windsor, 3, 10, 17, 24, 31

Circuit 40-Middlesex
His Hon. Judge Alchin
His Hon. Judge Drucquer (Add.)
His Hon. Judge Tudor Rees (Add.)
Bow, 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 15, 16, 17, 18, 19, 22, 23, 24, 25, 26, 29, 30, 31

Circuit 41-Middlesex
His Hon. Judge Earengey, K.C.
His Hon. Judge Trevor Hunter, K.C. (Add.)
Clerkenwell, 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 15, 16, 17, 18, 19, 22, 23, 24, 25, 26, 29, 30, 31

Circuit 42-Middlesex
His Hon. Judge Neal
His Hon. Judge David Davies, K.C.
Bloomsbury, 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 15, 16, 17, 18, 19, 22, 23, 24, 25, 26, 29, 30, 31

Circuit 43-Middlesex
His Hon. Judge Bensley Wells
Marylebone, 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 15, 16, 17, 18, 19, 22, 23, 24, 25, 26

Circuit 44-Middlesex
His Hon. Judge Drucquer
His Hon. Judge Davies, K.C. (Add.)
Westminster, 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 15, 16, 17, 18, 19, 22, 23, 24, 25, 26, 29, 30, 31

Circuit 45—Surrey
His Hon. Judge Hancock, M.C.
His Hon. Judge Hurst (Add.)
*Kingston, 2, 5, 9, 12, 16, 19, 23, 26, 30
*Wandsworth, 1, 3, 4, 8, 10, 11, 15, 17, 18, 22, 24, 25, 29, 31

Circuit 46-Middlesex
His Hon. Judge Neal
Brentford, 1, 4, 8, 11, 15, 18, 22, 25, 29
*Willesden, 2, 3, 5, 9, 10, 12, 16, 17, 19, 23, 24, 26, 30, 31

Circuit 47—Kent
His Hon. Judge Daynes, K.C.
His Hon. Judge Hurst (Add.)
Southwark, 1, 9,15,23, 30
Woolwich, 10, 24

Circuit 48—Surrey
His Hon. Judge Bensley Wells
His Hon. Judge Collingwood (Add.)
Dorking, 11
Epsom, 3, 10, 23, 24
*Guildford, 4, 18
Horsham, 25
Lambeth, 1, 2, 3, 5, 8, 9, 11, 12, 15, 16, 17, 19, 22, 23, 25
Redhill, 17

Circuit 49—Kent
His Hon. Judge Clements
Ashford, 8, 29
*Canterbury, 16
Cranbrook, 22
Deal,
*Dover, 24
Folkestone, 30
Hythe,
*Maidstone, 19
Margate,
*Ramsgate, 17
†*Rochester, 10, 11
Sheerness,
Sittingbourne, 23
Tenterden,

Circuit 50—Sussex
His Hon. Judge Archer, K.C.
Arundel,
Brighton, 4, 5, 11, 18, 19, 25, 26
†*Chichester, 12
*Eastbourne, 17
*Hastings, 2, 30
Haywards Heath, 24
*Lewes, 1
Petworth,
Worthing, 16

Circuit 51 — Hampshire
His Hon. Judge Topham, K.C.
Aldershot,
Basingstoke, 10
Bishops Waltham,
Farnham, 5
*Newport,
Petersfield, 12
†*Portsmouth, 1 (B.), 4, 11, 18
Romsey,
Ryde, 24
†*Southampton, 2, 9, 10, (B.), 16, 17
*Winchester, 3

Circuit 52—Wiltshire
His Hon. Judge Jenkins, K.C.
*Bath, 4 (B.), 11 (B.)
Calne, 6
Chippenham, 26
Cirencester, 25
Devizes, 8
Dursley, 18
*Frome, 17 (B.)
Hungerford,
Malmesbury, 18 (R.)
Marlborough, 23
Melksham,
*Newbury, 1 (B.)
Stroud, 16
*Swindon, 8, 10 (B.)
Trowbridge, 5
Warminster, 13
Wincanton, 12

Circuit 54-Somersetshire
His Hon. Judge Wethered
†*Bridgwater, 5
†*Bristol, 1, 8 (J.S.), 9, 10, 11, 12 (B.), 15, 16 (R.), 17, 18, 19 (B.), 22 (J.S.)
Gloucester, 23, 25
Minehead, 16
Newent, 24 (R.)
Newnham, 17 (R.)
Thornbury,
*Wells, 2
Weston-super-Mare, 3

Circuit 55 — Dorsetshire
His Hon. Judge Cave, K.C.
Andover, 10 (R.)
Blandford,
*Bournemouth, 4 (R.), 16, 17
Bridport, 23
Crewkerne, 9 (R.)
*Dorchester, 5
Lymington,
*Poole, 10, 24 (R.)
Ringwood,
*Salisbury, 4
Shaftesbury, 1
Swanage,
*Weymouth, 2
Wimborne,
*Yeovil, 11

Circuit 56—Kent
His Hon. Judge Sir Gerald Hurst, K.C.
Bromley, 2, 3, 23, 24
*Croydon, 1, 5, 8, 9, 10, 17, 19, 26
Dartford, 11, 25
East Grinstead, 16
Gravesend, 15
Sevenoaks, 22
Tonbridge, 4
Tunbridge Wells, 18

Circuit 57-Devonshire
His Hon. Judge Thesiger
Axminster, 15
†*Barnstaple, 23
Bideford, 24
Chard, 16
†*Exeter, 11, 12
Honiton,
Langport, 15, (R.)
Newton Abbott, 18
Okehampton,
South Molton, 25
Taunton, 8
Tiverton, 17
*Torquay, 9, 10
Torrington,
Totnes, 19
Wellington, 22

Circuit 58—Essex
His Hon. Judge Trevor Hunter, K.C.
His Hon. Judge Daynes (Add.)
His Hon. Judge Andrew (Add.)
Brentwood, 12 (R.)
Gray's Thurrock, 16 (R.)
Ilford, 1 (R.), 2, 3, 8 (R.), 9, 10, 15 (R.), 22 (R.), 23, 24, 29 (R.), 30, 31
Southend, 3 (R.), 17 (R.B.), 18 (R.), 19, 24 (R.), 25, 26

Circuit 59—Cornwall
His Hon. Judge Armstrong
Bodmin,
Camelford,
Falmouth, 9
Helston,
Holsworthy,
Kingsbridge, 18
Launceston,
Liskeard, 11 (R.)
Newquay, 16
†*Penzance, 10
Plymouth, 10 (R.), 23, 24, 25, 26
Redruth, 11
St. Austell, 15
Tavistock, 17
†*Truro, 12

The Mayor's & City of London Court
His Hon. Judge Dobson
His Hon. Judge Beazley
His Hon. Judge Thomas
His Hon. Judge McClure
Guildhall, 1, 2, 3 (A.), 4, 5 (J.S.), 8, 9, 10 (A.), 11, 12 (J.S.), 15, 16, 17 (A.), 18, 19 (J.S.), 22, 23, 24, 25, 26 (J.S.), 29, 30, 31 (A.)

* = Bankruptcy Court
† = Admiralty Court
(R.) = Register
(J.S.) = Judgment Summonses
(B.) = Bankruptcy
(R.B.) = Registrar in Bankruptcy
(Add.) = Additional Judge
(A.) = Admiralty

CORRESPONDENCE

[The views expressed by our correspondents are not necessarily those of THE SOLICITORS' JOURNAL.*]*

Liability of Husband for Wife's Debts and Funeral Expenses

Sir,—We are writing you to draw the attention of the profession to the effect of the case *Rees* v. *Hughes* in the Court of Appeal, reported in "Weekly Notes," 1946, at p. 121, upon the practice of the Inland Revenue with regard to the deduction of debts for estate duty purposes in the case of married women living with their husbands, at the time of their death possessed of separate estate.

It has been the erroneous practice of the Inland Revenue to claim that funeral expenses and debts of a married woman dying possessed of separate estate are not a deduction for the purposes of estate duty because the husband was at common law liable for these debts.

We have always maintained with great vigour that this view of the Inland Revenue of the real law had been destroyed by the effect of the Married Women's Property Act, 1882, and of the subsequent legislation, but they have persisted in their view, relying upon some cases right back in the middle of the nineteenth century.

The Court of Appeal have now determined, in this case, that the old common law rule has disappeared where the wife had assets, and that no longer can the husband be made liable for these debts. Hence, the basis of the estate duty authorities' erroneous claim has now been entirely destroyed.

We write this letter because it may not be apparent at first sight that this is the effect of the decision of the Court of Appeal in *Rees* v. *Hughes*.

We ourselves have now intimated to the Estate Duty Office, in view of this case, that we refuse to concur in their view, and that if they want to maintain the matter further they must have recourse to the courts.

London, W.C.2. EVILL & COLEMAN.

Solicitors' Wills

Sir,—The main reason for the strange anomaly referred to in the letter of your correspondent "A Competent and Busy Solicitor," in your issue of the 22nd June, is that solicitors are mostly paid not by the amount of work done, but by scale according to the amount of the purchase money, mortgage, capital of the company, and so on!

The result being that the lucky few, who act for clients with "big business," make big incomes; and the majority, who are acting for people of very moderate means, although they may do more work, get less pay.

Malton. ONE OF THE MANY.

BIRTHDAY LEGAL HONOURS

O.B.E.

Mr. H. A. ANDREWS, Secretary, Independent Order of Odd Fellows (Manchester Unity) Friendly Society. Called by Gray's Inn 1924.

Lt.-Colonel R. E. BANKS, Legal Assistant, Office of the Judge Advocate-General.

Mr. E. L. F. BITTERMANN, Chairman, North Shields Court of Referees. Admitted 1921.

Mr. W. JONES, Clerk of the Angelsey County Council. Admitted 1920.

Major N. H. MATHEWS, Voluntary Welfare Officer. For services to the Legal Aid Scheme. Admitted 1912.

M.B.E.

Miss S. COHEN, for services to the Army Legal Aid Scheme, Western Command. Admitted 1940.

Mr. H. E. REED, Assistant Legal Secretary, Law Officers' Department. Called by Gray's Inn 1932.

Mr. R. F. C. ROACH, Registrar, Railway and Canal Commission, Supreme Court of Judicature.

The Legal Aid Committee, which sat under the chairmanship of Lord Rushcliffe last year, gave a dinner in his honour at The Law Society's Hall, on the 18th June. Others present included: Lady Rushcliffe, Viscount Simon, the Hon. Mrs. Bickford Smith, Mr. R. F. Burnand, Mr. F. E. Crowder, Mr. W. A. Gillett, Mr. Justice Hodson, Mr. R. Moelwyn Hughes, K.C., Mr. S. C. T. Littlewood, Major R. E. Manningham-Buller, K.C., M.P., Mr. Theobald Mathew, the Hon. Sir Albert Napier, and Mr. W. T. C. Skyrme.

NOTES OF CASES

COURT OF APPEAL

In re **Horn, deceased; Westminster Bank, Ltd.** *v.* **Horn**

Lord Greene, M.R., Scott and Somervell, L.JJ.

2nd May, 1946

Will—Construction—Direction in will that moneys lent to a child to be taken in or towards satisfaction of a share of residue—Loan to son—Direction not a release of debt.

Appeal from a decision of Cohen, J.

The testator by his will dated the 26th October, 1942, settled two pecuniary legacies on his two daughters and their issue and settled two legacies of £45,000 each on his two sons and their issue. In the event of the estate being insufficient the sons' legacies were to abate first. He settled the residue on his four children equally. Clause 15 provided as follows: "All money which I have lent . . . to any child of mine . . . and the interest on all such money shall . . . be taken in or towards satisfaction of the share of such child or his or her issue taking by substitution as aforesaid in my residuary estate and shall be brought into hotchpot and accounted for accordingly." The testator died in 1944. His estate was insufficient to provide for all the legacies in full, only £43,000 being available to pay the sons' legacies. The testator had lent one of his sons, G, £13,700, carrying interest at 5 per cent. By this summons the trustees of the will asked whether G was liable to pay to the estate £13,700 and interest at 5 per cent. Cohen, J., held that cl. 15 did not operate to release the debt. G appealed.

LORD GREENE, M.R., said that the appellant's argument was that the first limb of cl. 15 operated as a release. The courts were sometimes disposed to view favourably a rather strained construction if that were necessary to achieve the overriding purpose of the will or to avoid some blatant inequality or unfairness. To construe the words as the appellant suggested, far from avoiding unfairness or inequality, would, in fact, create it, because the result would be that G would get a settled legacy equal to that of his brother and he would be discharged from his liability. That was contrary to the general intention of the will, and he was not prepared to put a forced construction on the words of cl. 15 to produce such a result. The appellant's sheet anchor was *In re Cosier; Humphreys* v. *Gadsden* [1897] 1 Ch. 325, reported in the House of Lords *sub nom., Wheeler and Others* v. *Humphreys and Others* [1898] A.C. 506, where a similar clause was considered. The construction put on the clause by the House of Lords involved no reliance on any part of the words in the hotchpot clause amounting to words of gift. The clause in the present case was an ordinary hotchpot clause of a verbose form. The words "taken in or towards satisfaction" were inserted as indicating the machinery of the clause and not for the purpose of making a gift or for forgiving a loan. The appeal should be dismissed.

SCOTT and SOMERVELL, L.JJ., agreed.

COUNSEL: *Neville Gray*, K.C., and *Eardley-Wilmot*, *Andrew Clark* K.C., and *Gwyn Rees*; *J. V. Nesbitt*.

SOLICITORS: *Marshall & Hicks Beach*, *Wrentmore & Son*; *Murray, Hutchins & Co.*

[Reported by Miss B. A. BICKNELL, Barrister-at-Law.]

KING'S BENCH DIVISION

Wickham *v.* **Paddington Borough Council**

Atkinson, J. 29th March, 1946

Local government—Superannuation—Borough Treasurer—Additional appointment as local fuel overseer—Whether separate office—Calculation of benefit—Paddington Borough Council (Pensions and Superannuation) Act, 1911 (1 & 2 *Geo.* 5, *c.* ci)—*Local Government Superannuation Act*, 1937 (1 *Edw.* 8 & 1 *Geo.* 6, *c.* 69), *s.* 40 (3).

Special case stated by an arbitrator.

The applicant was appointed treasurer of the respondent borough council in 1924. In September, 1939, he was appointed local fuel overseer to the borough under the Fuel and Lighting Order, 1939. In September, 1945, he relinquished both offices on his compulsory retirement on reaching the age of 65 years. The superannuation scheme of the borough, as instituted by a local Act of 1911, and subsequently modified in compliance with the Local Government Officers Superannuation Act, 1937, was applicable to him. He had throughout contributed to the scheme from his salary as treasurer, and the amount of the pension to which he would be entitled on his compulsory retirement at 65 years was based on his earnings for the five years preceding the retirement and the period of his service with the council. The scheme was not applicable to anyone over 55 years of age who could not before attaining the age of compulsory retirement have completed ten years of service with the council, and by s. 40 (3) of the Act of 1937 "where an employee holds under a

local authority two or more separate employments of such a nature that he can cease to hold one without ceasing to hold the other or others, . . . this Act shall, unless the context otherwise requires, apply as respects him in relation to each of those separate employments as if the other . . . were an employment . . . held by him under another authority." In 1940, in pursuance of the statutory duty, the council, having decided that the treasurer's appointment as local fuel overseer constituted a material change in the circumstances of his employment, notified him of that fact, and that he must contribute to the fund 5 per cent. of his salary as overseer. The applicant claimed to have his superannuation benefits calculated by reference to his earnings as treasurer and fuel overseer during the five years preceding his retirement, which was resisted by the council, who contended that the two offices were separate and that the treasurer should, however, contribute in respect of his salary as overseer. The dispute now came to arbitration.

ATKINSON, J., held that s. 40 (3) of the Act of 1937 did not operate itself to separate the two offices for superannuation purposes, but merely gave a direction applicable to offices which were separate; that the two offices were not to be regarded as separate for the purposes of the local Act of 1911, as modified, since the applicant had, by virtue of the Act of 1937, taken up the post of fuel overseer too late to be entitled to superannuation benefit in respect of it, or liable to contribute out of the salary attaching to it, and that the services rendered by him as overseer were extra services rendered by him as treasurer, the remuneration for which he was entitled to have taken into account in the calculation of his superannuation benefit, deduction being made from it at 3 per cent. as being part of his salary as treasurer.

COUNSEL: *Harold Williams; Harold Willis.*

SOLICITORS: *W. H. Thompson; the Town Clerk*, Paddington.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Kirkham *v.* Lloyd

Lord Goddard, C.J., Humphreys and Lynskey, JJ.

15th May, 1946

Gaming—Substitution of one greyhound for another in race—Information defective—Failure to allege full statutory offence—Gaming Act, 1845 (8 & 9 Vict., c. 109), s. 17.

Case stated by Chester justices.

An information was preferred by the respondent charging the appellant with contravening s. 17 of the Gaming Act, 1845, in that he, by fraud or unlawful device or ill-practice in substituting one greyhound for another in a race at a public greyhound racecourse, did attempt to win divers sums of money. Section 17 of the Act of 1845, in creating the above offence, includes the words "in wagering on the event of any . . . sport," which were absent from the information. The justices found the offence charged proved, and the appellant's main argument on the appeal was that the information, and therefore his conviction, was bad.

LORD GODDARD, C.J., said that the information had set out insufficient words to show that an offence had been committed. In omitting the words the information was omitting to set out one of the ingredients of the offence alleged and was, therefore, bad. The justices could have corrected the error by amending the information, and ought to have done so had they been asked. They had convicted the appellant on an information which was for technical reasons bad, and the conviction must accordingly be quashed.

COUNSEL: *Arthian Davies*; the respondent did not appear and was not represented.

SOLICITORS: *Jaques & Co.*, for *Cyril Jones & Gittins*, Oswestry.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

OBITUARY

MR. B. GOODFELLOW

Mr. Benjamin Goodfellow, solicitor, of Messrs. Goulty and Goodfellow, solicitors, of Manchester, died recently, aged eighty-two. He was admitted in 1886.

MR. F. N. MARCY

Mr. Frederick Nichols Marcy, senior partner of Messrs. Marcy, Russell, Cook & Co., solicitors, of Lincoln's Inn, died on Friday, 7th June, aged sixty-five. He was admitted in 1903.

MR. A. POTTER

Mr. Arthur Potter, solicitor, of Hanover Square, W.1, died on Wednesday, 12th June, aged seventy-one. He was admitted in 1903.

MR. G. J. TURNER

Mr. George James Turner, F.B.A., F.S.A., barrister-at-law, died on Tuesday, 4th June. He was called by Lincoln's Inn in 1892, and was an authority on medieval law.

PARLIAMENTARY NEWS

HOUSE OF LORDS

Read First Time:—

DUNDEE CORPORATION ORDER CONFIRMATION BILL [H.C.]. [18th June.

GLASGOW CORPORATION ORDER CONFIRMATION BILL [H.C.]. [18th June.

Read Second Time:—

BIRMINGHAM CORPORATION BILL [H.C.]. [20th June.

LONG EATON URBAN DISTRICT COUNCIL BILL [H.C.]. [19th June.

Read Third Time:—

CALEDONIAN INSURANCE COMPANY BILL [H.L.]. [18th June.

GAS LIGHT AND COKE COMPANY BILL [H.L.]. [18th June

RHODES TRUST BILL [H.L.]. [20th June.

In Committee:—

COAL INDUSTRY NATIONALISATION BILL [H.C.]. [20th June.

HOUSE OF COMMONS

Read Second Time:—

DERBY CORPORATION (TROLLEY VEHICLES) PROVISIONAL ORDER BILL [H.C.]. [19th June.

IPSWICH CORPORATION (TROLLEY VEHICLES) PROVISIONAL ORDER BILL [H.C.]. [19th June.

MAIDSTONE CORPORATION (TROLLEY VEHICLES) PROVISIONAL ORDER BILL [H.C.]. [19th June.

READING CORPORATION (TROLLEY VEHICLES) PROVISIONAL ORDER BILL [H.C.]. [19th June.

SKEGNESS PIER PROVISIONAL ORDER BILL [H.C.]. [19th June.

Read Third Time:—

CITY OF LONDON (VARIOUS POWERS) BILL [H.L.]. [20th June.

In Committee:—

FINANCE (No. 2) BILL [H.C.]. [20th June.

SOCIETIES

THE BARRISTERS' BENEVOLENT ASSOCIATION

The annual general meeting of the Barristers' Benevolent Association will be held in the Old Hall, Lincoln's Inn, on Wednesday, 10th July next, at 4.30 p.m.

The Right Hon. Lord Simonds has kindly promised to preside. All members of the Inns of Court, whether subscribers to the association's funds or not, are cordially invited to attend.

The committee wish it to be known that the association is urgently in need of further support. Members of the Bar who do not already subscribe will, if they attend the meeting, learn of the valuable work of the association in relieving cases of distress in the profession, and of its pressing need for augmented resources.

They are asked to make a note of the date, time and place, and to come if they possibly can.

An opportunity will be afforded to members and others attending the meeting to raise for discussion any questions relating to the work or administration of the association.

It will greatly assist the committee if any person proposing to raise any such question will give notice thereof to the Secretary not less than seven days before the meeting.

The annual report will be circulated before the meeting to every member of the Bar with an address in the Law List.

The following twenty members of the association are eligible and willing to serve on the committee of management for the ensuing year as ordinary members thereof, and will be proposed for election at the meeting: W. Craig Henderson, K.C., Sir Walter Monckton, K.C.M.G., K.C.V.O., M.C., K.C., P. E. Sandlands, K.C., G. Russell Vick, K.C., Sir Malcolm Trustram Eve, Bt., K.C., J. Neville Gray, K.C., Maurice Fitzgerald, K.C., Gerald R. Upjohn, C.B.E., K.C., E. Holroyd Pearce, K.C., C. Montgomery White, K.C., H. G. Robertson, William Latey, E. A. Godson, Anthony Hawke, H. H. Maddocks, G. S. W. Marlow, H. D. Peacock, Sir John Cameron, Bt., F. D. L. McIntyre and Geoffrey Cross.

Subscriptions and donations should be sent to the association at the above address. Cheques should be drawn in favour of "The Barristers' Benevolent Association or Order" and crossed "Westminster Bank, Ltd., a/c of Payees." A form of bankers' order will be enclosed with the report.

THE BENTHAM COMMITTEE

A meeting of the London Council of Poor Man's Lawyers was held in the Council Room of The Law Society on the 5th June last, to consider the Bentham Committee's Report for 1944–45, and to elect the members of the committee for the ensuing year. The Chairman, Mr. A. L. Samuell, referred to the Report of Lord

Rushcliffe's Committee on Legal Aid, whose conclusions and recommendations he pointed out were in line with what the committee had been doing on a limited scale and in accordance with the principle for which the committee had always stood, that a citizen who cannot afford to pay for a lawyer's services in the ordinary way should have them provided for him lest he be denied legal rights and suffer injustice. As in the case of the voluntary hospitals pending their being absorbed into the State medical service, which is nearer than a State legal service, it was the transition period which was causing difficulties and anxiety. The Bentham Committee needed money to carry on until its services were no longer required, but above all it needed the services of conducting solicitors, and the hope was expressed that some solicitors who were not already on the committee's panel might be willing to undertake two or three cases a year in their local county courts.

The President of The Law Society, who attended the meeting, called attention to the fact that during the year in only one case had proceedings been unsuccessful where cases had been taken to court with the assistance of the Bentham Committee, and it was explained by Mr. H. E. Salt, K.C., and the Chairman that this was because litigation was only undertaken where a case had merits as well as reasonable prospects of success, and not because the committee had refused help to applicants who were in its opinion entitled to assistance, which was given by its Secretary, Mr. G. Hall Clark, or his firm, if no other solicitor was available.

The existing committee was re-elected with the addition to it of Mr. Christian Edwards, who has done a great deal of work as P.M.L.

RULES AND ORDERS

S.R. & O., 1946, No. 781

LANDLORD AND TENANT, ENGLAND

Furnished Houses (Rent Control)

THE FURNISHED HOUSES (RENT CONTROL) REGULATIONS, 1946, DATED MAY 30, 1946, MADE BY THE MINISTER OF HEALTH UNDER SECTION 8 OF THE FURNISHED HOUSES (RENT CONTROL) ACT, 1946 (9 & 10 GEO. 6. c. 34).

104851.

The Minister of Health in exercise of the powers conferred upon him by section 8 of the Furnished Houses (Rent Control) Act, 1946, and of all other powers enabling him in that behalf, hereby makes the following regulations :—

GENERAL.

1. These regulations may be cited as the Furnished Houses (Rent Control) Regulations, 1946.

2.—(1) In these regulations—

" the Act " means the Furnished Houses (Rent Control) Act, 1946 ;

" contract " means a contract to which the Act applies ;

" the Tribunal " means the Tribunal appointed for the district in which the premises are situated.

(2) The Interpretation Act, 1889 *, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

TENURE OF OFFICE OF MEMBERS OF TRIBUNALS

3. The Chairman and other members of a Tribunal shall hold office during the pleasure of the Minister of Health. A member may resign office by sending a letter of resignation to the Minister of Health.

PROCEEDINGS BEFORE TRIBUNALS

4. Reference to a Tribunal shall be by written notice. The notice shall specify the address of the house or part of a house to which the contract relates, the names of the lessor and lessee, and the address of the lessor. The notice may be delivered at an office of the Tribunal, in which case it shall be deemed to have reached the Tribunal on the day when it is so delivered, or may be posted to the Tribunal, in which case it shall be deemed to have reached the Tribunal on the day when it would be delivered in the ordinary course of post.

5. Where any reference is made to a Tribunal, the Tribunal shall, unless they refuse under section 2 (6) of the Act to entertain it, give notice in writing to each party to the contract informing him that he may within such time as the Tribunal may allow (not being less than seven days from the date of the notice) give notice to the Clerk of the Tribunal that he desires to be heard by them, or may send to the Clerk of the Tribunal representations in writing :

Provided that the Tribunal may extend the time stated in the notice.

6.—(1) If any party to the contract informs the Clerk of the Tribunal that he desires to be heard the Tribunal shall give to each party not less than seven clear days notice in writing of the time and place at which the parties will be heard.

(2) If the house to which the reference relates is one the general management whereof is vested in and exerciseable by the local authority as housing authority, the said local authority shall be given an opportunity of being heard, or, if they so desire, of submitting representations in writing.

7. At any hearing before a Tribunal a party to the contract may appear in person or by counsel or a solicitor or by any other representative or may be accompanied by any person whom he may wish to assist him thereat.

* 52 & 53 Vict. c. 63.

8.—(1) Subject to the provisions of these regulations the procedure at a hearing shall be such as the Tribunal may determine, and the Tribunal may if they think fit, and at the request of either party shall unless for some special reason they consider it undesirable, allow the hearing to be held in public.

(2) The Tribunal may postpone or adjourn the hearing from time to time as they think fit.

9. The decision of the majority of a Tribunal shall be the decision of the Tribunal. The decision shall be in writing, signed by the Chairman, and shall be sent as soon as may be to the parties to the contract and to the local authority responsible for the registration of the decision.

10. Where any notice is required or authorized by the Act or by these regulations to be given by the Tribunal it shall be sufficient compliance with the Act or the regulations if the notice is sent by post in a pre-paid letter addressed to the party for whom it is intended at his usual or last known address.

INFORMATION TO BE GIVEN BY LESSORS

11. The particulars concerning which the lessor in a contract referred to a Tribunal may by notice be required to give information to the Tribunal under section 2 (1) of the Act shall be those set out in the first schedule to these regulations.

REGISTER

12. The particulars to be furnished by the Tribunal to the local authority under section 3 (3) of the Act to be entered in the register kept for the purposes of the Act under section 3 (1) shall be those set out in the second schedule to these regulations.

The register shall be open to public inspection at the offices of the local authority during their normal hours of business. The fee for a certified copy of an entry given in accordance with the provisions of section 11 of the Act shall be the sum of one shilling.

FIRST SCHEDULE

Particulars concerning which lessors may by notice be required to give information.

1. The address of the house to which or to part of which the contract relates.

2.—(i) Whether the accommodation has been registered for the purpose of Defence Regulation 68CB, and

(ii) whether it is let in accordance with the terms and conditions so registered.†

3. The name of the lessee.

4. Total accommodation in the house.

5. Accommodation occupied or used by the lessee (*a*) exclusively, (*b*) in common with other persons.

6. Furniture provided by the lessor for the use of the lessee.

7. Services provided by the lessor for the use of the lessee.

8.—(i) (*Where the lessor is not the owner*).—In what manner did the lessor become owner ; at what date ; if he bought the house, the price paid ; and the amount of interest on any mortgage of the house.

(ii) (*Where the lessor is the owner*).—The rent payable by the lessor to his superior landlord in respect of (*a*) the house, or (*b*) that part of the house which is rented by him from the superior landlord.

9. Rates payable by the lessor in respect of (*a*) the house, and (*b*) the accommodation occupied by the lessee where this accommodation has been separately assessed for rates.

10. Payments contracted to be made by the lessee to the lessor, and if separate payments are made in respect of occupation, furniture, and services the separate payments in respect of each class.

11. Whether board is supplied, and if so the nature and amount of the board.

SECOND SCHEDULE

Particulars to be entered in the register kept by a local authority.

1. Specification of the premises to which the contract referred to the Tribunal relates, stating also whether the contract relates to a part only of a house, and stating :—

(*a*) accommodation of which the lessee is entitled to exclusive occupation ;

(*b*) accommodation of which the lessee is entitled to the use in common with any other person.

2. Names and addresses of parties to the contract referred to the Tribunal.

3. Whether furniture is provided by the lessor for the use of the lessee, and, if so, whether the premises are furnished by the lessor fully, or in part, or to a slight extent.

4. Services provided by the lessor.

5. Whether board is supplied, and if so the nature and amount of the board.

6. Rent as approved or reduced or increased by the Tribunal.

7. Where the rent is approved, reduced or increased with respect to a limited period a statement of that period.

8. Date on which an entry is made in the register with regard to item 6 and, in cases to which it applies, item 7.

Given under the official seal of the Minister of Health this thirtieth day of May nineteen hundred and forty-six.

(L.S.) *A. N. C. Shelley,*
Assistant Secretary,
Ministry of Health

† *Note.*—If the accommodation let to the lessee has been registered under Defence Regulation 68CB and is let in accordance with the terms and conditions so registered the Furnished Houses (Rent Control) Act, 1946, does not apply.

NOTES AND NEWS

Professional Announcement

Mr. W. H. HADFIELD, solicitor, Farnham, Surrey, has retired from the office of Clerk to the Justices of the Farnham Division of Surrey, but will continue to practise at Farnham.

Mr. Walter Hedley, K.C., one of the magistrates at the Marlborough Street Magistrates Court, is retiring in July, because of ill-health.

ROYAL COMMISSION ON APPOINTMENT OF JUSTICES OF THE PEACE

Mr. Attlee announced in the House of Commons, on Monday last, that the King had approved the setting up of a Royal Commission to consider the position of Justices of the Peace, and that the following persons should be appointed members of the Commission: Lord du Parcq (chairman), the Marquess of Exeter, K.G., the Earl of Rosebery, D.S.O., M.C., Lord Merthyr, Lord Chorley, Sir Edward Cadogan, Sir Alexander Maxwell, Sir James Aitken, Sir Cecil Oakes, Alderman Miss Mary Latchford Kingsmill Jones, Mr. Arthur Fred Stapleton Cotton, Mrs. Thelma Denholm, Alderman John Evans, M.P., Mr. Dingle Mackintosh Foot, Mr. John Arthur Fergus Watson, Mr. James Welsh. The secretary of the Commission is Dr. R. M. Jackson.

The terms of reference are as follows:—

(1) To review the present arrangements for the selection and removal of justices of the peace in Great Britain, and to report what changes, if any, in that system are necessary or desirable to ensure that only the most suitable persons are appointed to the Commission of the Peace.

(2) To consider and report on the qualifications and disqualifications for appointment to the office of justice of the peace, whether imposed by statutory provision or by administrative practice, and on the tenure of the office of justice of the peace and, in particular, whether appointments should be made for a term of years, or subject to a retiring age, and what provision, if any, should be made for removing from the Commission of the Peace the names of justices who prove unable or unwilling to discharge the functions of their office.

(3) To consider and report whether any alteration is desirable in the law or practice as to *ex officio* justices of the peace.

(4) To consider and report whether any alteration is desirable in the law and practice relating to the selection and appointment of the chairman of magisterial benches.

(5) To consider and report whether any alteration is desirable in the law or practice as to the selection and appointment of justices of the peace to form panels for juvenile courts.

(6) To consider and report whether the expenses of justices of the peace incurred in the course of their duty should be paid out of public funds.

(7) To consider and report on the law and practice relating to the appointment of stipendiary magistrates in England and Wales and in particular on the question of their salaries and of the provision of pensions, and whether there should be power to appoint stipendiary magistrates otherwise than on the application of the local authority.

(8) To consider and report whether provision should be made for allocating work as between justices of the peace and stipendiary magistrates in England and Wales in areas for which a stipendiary magistrate is appointed.

(9) To consider and report generally in relation to the foregoing matters.

Communications should be addressed to the Secretary, Royal Commission on Justices of the Peace, Home Office Building, Whitehall, S.W.1. Persons wishing to give evidence before the Commission should make application to the secretary, submitting a written statement of the evidence they wish to give.

COURT PAPERS

SUPREME COURT OF JUDICATURE

TRINITY SITTINGS, 1946

COURT OF APPEAL AND HIGH COURT OF JUSTICE—CHANCERY DIVISION

ROTA OF REGISTRARS IN ATTENDANCE ON

Date.		Emergency Rota.	Appeal Court I.	Mr. Justice Vaisey.
Mon., July	1	Mr. Reader	Mr. Andrews	Mr. Jones
Tues., ,,	2	Hay	Jones	Reader
Wed., ,,	3	Farr	Reader	Hay
Thurs., ,,	4	Blaker	Hay	Farr
Fri., ,,	5	Andrews	Farr	Blaker
Sat., ,,	6	Jones	Blaker	Andrews

		Group A.		Group B.	
Date.		Mr. Justice Roxburgh *Non-Witness.*	Mr. Justice Wynn-Parry *Witness.*	Mr. Justice Evershed *Witness.*	Mr. Justice Romer *Non-Witness*
Mon., July	1	Mr. Blaker	Mr. Farr	Mr. Reader	Mr. Hay
Tues., ,,	2	Andrews	Blaker	Hay	Farr
Wed., ,,	3	Jones	Andrews	Farr	Blaker
Thurs., ,,	4	Reader	Jones	Blaker	Andrews
Fri., ,,	5	Hay	Reader	Andrews	Jones
Sat., ,,	6	Farr	Hay	Jones	Reader

STOCK EXCHANGE PRICES OF CERTAIN TRUSTEE SECURITIES

Bank Rate (26th October, 1939) 2%

	Div. Months	Middle Price June 24 1946	Flat Interest Yield	‡ Approximate Yield with redemption
British Government Securities			£ s. d.	£ s. d.
Consols 4% 1957 or after	FA	114¼	3 10 0	2 10 0
Consols 2½%	JAJO	96½	2 11 10	—
War Loan 3% 1955–59	AO	105¾	2 16 8	2 5 8
War Loan 3½% 1952 or after	JD	106	3 6 0	2 9 8
Funding 4% Loan 1960–90	MN	116¾	3 8 6	2 11 2
Funding 3% Loan 1959–69	AO	105	2 17 2	2 10 10
Funding 2¾% Loan 1952–57	JD	103¼	2 13 3	2 3 5
Funding 2½% Loan 1956–61	AO	101¼	2 9 4	2 7 1
Victory 4% Loan Av. life 18 years	MS	118½	3 7 6	2 13 9
Conversion 3½% Loan 1961 or after	AO	111	3 3 1	2 12 2
National Defence Loan 3% 1954–58	JJ	105	2 17 2	2 5 2
National War Bonds 2½% 1952–54	MS	102⅝	2 8 9	2 0 11
Savings Bonds 3% 1955–65	FA	105	2 17 2	2 6 10
Savings Bonds 3% 1960–70	MS	105½	2 16 10	2 10 7
Local Loans 3% Stock	JAJO	100¼	2 19 10	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	101	2 19 5	—
Guaranteed 2½% Stock (Irish Land Act 1903)	JJ	100½	2 14 9	—
Redemption 3% 1986–96	AO	112¾	2 13 2	2 9 10
Sudan 4½% 1939–73 Av. life 16 years	FA	118	3 16 3	3 1 3
Sudan 4% 1974 Red. in part after 1950	MN	113	3 10 10	– 16 11
Tanganyika 4% Guaranteed 1951–71	FA	107½	3 14 5	2 3 8
Lon. Elec. T.F. Corp. 2½% 1950–55	FA	101	2 9 6	2 3 11
Colonial Securities				
*Australia (Commonw'h) 4% 1955–70	JJ	108½	3 13 9	2 18 4
Australia (Commonw'h) 3½% 1964–74	JJ	107	3 0 9	2 15 0
*Australia (Commonw'h) 3% 1955–58	AO	103	2 18 3	2 12 6
†Nigeria 4% 1963	AO	118	3 7 10	2 13 4
*Queensland 3½% 1950–70	JJ	103	3 8 0	2 11 7
Southern Rhodesia 3½% 1961–66	JJ	110	3 3 8	2 13 7
Trinidad 3% 1965–70	AO	105	2 17 2	2 13 2
Corporation Stocks				
*Birmingham 3% 1947 or after	JJ	101	2 19 5	—
*Croydon 3% 1940–60	AO	102	2 18 10	—
*Leeds 3½% 1958–62	JJ	106	3 1 3	2 12 3
*Liverpool 3% 1954–64	MN	103½	2 18 0	2 10 3
Liverpool 3½% Red'mable by agreement with holders or by purchase	JAJO	111	3 3 1	—
London County 3% Con. Stock after 1920 at option of Corporation	MSJD	101⅛	2 19 1	—
*London County 3½% 1954–59	FA	108	3 4 10	2 7 9
*Manchester 3% 1941 or after	FA	101½	2 19 1	—
*Manchester 3% 1958–63	AO	105	2 17 2	2 10 3
Met. Water Board 3% "A" 1963–2003	AO	104	2 17 8	2 14 1
*Do. do. 3% "B" 1934–2003	MS	102	2 18 10	—
*Do. do. 3% "E" 1953–73	JJ	104	2 17 8	2 6 5
Middlesex C.C. 3% 1961–66	MS	105	2 17 2	2 11 11
*Newcastle 3% Consolidated 1957	MS	105	2 17 2	2 9 6
Nottingham 3% Irredeemable	MN	105	2 17 2	—
Sheffield Corporation 3½% 1968	JJ	113	3 1 11	2 14 2
Railway Debenture and Preference Stocks				
Gt. Western Rly. 4% Debenture	JJ	117	3 8 5	—
Gt. Western Rly. 4½% Debenture	JJ	120	3 15 0	—
Gt. Western Rly. 5% Debenture	JJ	133½	3 14 11	—
Gt. Western Rly. 5% Rent Charge	FA	129½	3 17 3	—
Gt. Western Rly. 5% Cons. G'rteed.	MA	126½	3 19 1	—
Gt. Western Rly. 5% Preference	MA	117	4 5 6	—

* Not available to Trustees over par.

† Not available to Trustees over 115.

‡ In the case of Stocks at a premium, the yield with redemption has been calculated at the earliest date; in the case of other Stocks, as at the latest date.

"THE SOLICITORS' JOURNAL"

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